

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF VIRGINIA
ALEXANDRIA DIVISION**

**TOWERS WATSON & CO. n/k/a WTW §
DELAWARE HOLDINGS LLC, §**

Plaintiff, §

v. §

Civil Action No. 1:20-cv-00810

**NATIONAL UNION FIRE §
INSURANCE COMPANY OF §
PITTSBURGH, PA, FEDERAL §
INSURANCE COMPANY, U.S. §
SPECIALTY INSURANCE §
COMPANY, TRAVELERS §
CASUALTY AND SURETY §
COMPANY OF AMERICA, LIBERTY §
INSURANCE UNDERWRITERS INC., §
ALLIED WORLD NATIONAL §
ASSURANCE COMPANY, and §
IRONSHORE INDEMNITY INC., §**

Defendants. §

STIPULATED FINAL JUDGMENT AND ORDER

Plaintiff Towers Watson & Co. n/k/a WTW Delaware Holdings LLC (“Towers Watson”) and Defendants National Union Fire Insurance Company of Pittsburgh, Pa. (“National Union”), Federal Insurance Company (“Federal”), U.S. Specialty Insurance Company (“U.S. Specialty”), Travelers Casualty and Surety Company of America (“Travelers”), Liberty Insurance Underwriters Inc. (“Liberty”), Allied World National Assurance Company (“Allied World”), and Ironshore Indemnity Inc (“Ironshore”) (collectively, “Defendants”) have agreed to enter into this Stipulated Final Judgment and Order for the purpose of resolving Towers Watson’s claims against the Defendants in this action.

WHEREAS, on July 20, 2020, Towers Watson filed a verified complaint [Doc. No. 1] (“Complaint”) against the Defendants; and

WHEREAS, as set forth in its Complaint, Towers Watson sought coverage under certain insurance policies (“Policies”) issued by Defendants for potential settlements in two underlying lawsuits, *In re Willis Towers Watson plc Proxy Litigation*, Civ. A. No. 1:17-cv-01338-AJT-JFA (E.D. Va.), and *In re Towers Watson & Co. Stockholder Litigation*, Consolidated C.A. No. 2018-0132-KSJM (Del. Ch.) (the “Underlying Actions”), and alleged that Defendants had breached the implied covenant of good faith and fair dealing; and

WHEREAS, on August 6, 2020, Towers Watson filed a motion for partial summary judgment (“Motion for Partial Summary Judgment”) [Doc No. 19] with a supporting memorandum and exhibits contending that the Bump-Up Clause in the Policies does not bar coverage for any settlement of the Underlying Actions, which motion was opposed by the Defendants; and

WHEREAS, on August 11, 2020, Defendants National Union, Federal, Travelers, Liberty, Allied World, and Ironshore filed a Motion to Dismiss or Stay Based on Mandatory Alternative Dispute Resolution Clause [Doc. No. 36] (the “ADR Motion”); and

WHEREAS, on August 11, 2020, Defendants Federal, Travelers, Liberty, Allied World, and Ironshore filed a Motion to Dismiss for Lack of Ripeness [Doc. No. 42] (the “Ripeness Motion”); and

WHEREAS, Defendants deny breaching the implied covenant of good faith and fair dealing; and

WHEREAS, the parties to the Underlying Actions reached settlements that were approved by the courts in the Underlying Actions and paid by February 12, 2021;

WHEREAS, on October 5, 2021, the Court issued a memorandum opinion and order [Doc No. 184] granting the Motion for Partial Summary Judgment, denying as moot the Ripeness Motion, and denying the ADR Motion (the “October 5 Order”); and

WHEREAS, Towers Watson has agreed to dismiss its claim for breach of the implied covenant of good faith and fair dealing with prejudice; and

WHEREAS, Defendants have agreed to waive all other defenses to Towers Watson’s claim for insurance coverage for the Underlying Actions under the Policies, other than the Bump-Up Clause in the Policies and defenses and arguments tied to the Bump Up Clause, which are expressly preserved for appeal and/or in the event of a remand; and

WHEREAS, Towers Watson and the Defendants (collectively, the “Parties”) have agreed that there are no other outstanding issues or claims to resolve prior to entry of final judgment; and

WHEREAS, the Defendants reserve all rights of appeal in connection with the Bump-Up Clause; and

WHEREAS, the Parties have agreed to the terms of this Stipulated Final Judgment and Order.

In light of the foregoing, and having reviewed the terms of this Stipulated Final Judgment and Order and the entire record in this case, it is hereby **ORDERED, ADJUDGED, and DECREED** as follows:

1. The above recitals are incorporated into this Order and agreed to by the Parties.
2. Unless otherwise provided, this Stipulated Final Judgment and Order shall apply to Towers Watson and Defendants.

3. The Court enters a declaratory judgment in favor of Towers Watson and against all Defendants, declaring that the Bump-Up Clause in the Policies does not bar coverage for the settlement of the Underlying Actions.

4. **Judgment** is hereby entered in favor of Towers Watson and against each Defendant in the amount of its respective remaining limit of liability as identified in the chart below with prejudgment interest at the annual rate of six percent (6%) pursuant to Virginia Code Section 6.2-302. Each Defendant's liability for the judgment is individual, not joint, and payable by each Defendant as indicated in the below chart:

Defendant	Remaining Policy Limit	Pre-Judgment Interest through November 8, 2021	Additional Pre-Judgment Interest until entry of judgment
Federal	\$14,338,388	\$636,388.73	\$2,357.00 in daily interest from November 9, 2021 through the date this judgment is entered
U.S. Specialty	\$10,000,000	\$443,835.62	\$1,643.84 in daily interest from November 9, 2021 through the date this judgment is entered
Travelers	\$10,000,000	\$443,835.62	\$1,643.84 in daily interest from November 9, 2021 through the date this judgment is entered
Liberty	\$10,000,000	\$443,835.62	\$1,643.84 in daily interest from November 9, 2021 through the date this judgment is entered
Allied World	\$10,000,000	\$443,835.62	\$1,643.84 in daily interest from November 9, 2021 through the date this judgment is entered
Ironshore	\$10,000,000	\$443,835.62	\$1,643.84 in daily interest from November 9, 2021 through the date this judgment is entered

5. Each Defendant shall pay post-judgment interest calculated at the federal statutory interest rate set forth in 28 U.S.C. § 1961 on the portion of the judgment allocable to that Defendant from the date of entry of this judgment until the date of payment by that Defendant.

The Clerk is directed to ENTER JUDGMENT in accordance with Fed. R. Civ. P. 58 and forward a copy of the Order to all counsel of record.

ENTERED this 10th day of November, 2021.



Anthony J. Trenga
United States District Judge

Respectfully submitted:

Robin L. Cohen (*pro hac vice*)
Adam S. Ziffer (*pro hac vice*)
Orrie Levy (*pro hac vice*)
Cohen Ziffer Frenchman & McKenna LLP
1350 Avenue of the Americas
25th Floor
New York, NY 10019
Tel: (212) 584-1890
rcohen@cohenziffer.com
aziffer@cohenziffer.com
olevy@cohenziffer.com

/s/ Marla J. Diaz

Andrew J. Terrell (VSB #30093)
Marla J. Diaz (VSB #46799)
Whiteford, Taylor & Preston, LLP
3190 Fairview Park Drive, Suite 800
Falls Church, VA 22042
Tel: (703) 280-9131
Fax: (703) 280-9139
aterrell@wtplaw.com
mdiaz@wtplaw.com

Counsel for Plaintiff Towers Watson & Co.

/s/ Ian S. Hoffman

Ian S. Hoffman (VSB #75002)
Scott Schreiber (*pro hac vice*)
Arthur Luk (*pro hac vice*)
ARNOLD & PORTER

KAYE SCHOLER LLP
601 Massachusetts
Ave., NW
Washington, DC
20002
Tel: (202) 942-5000
Fax: (202) 942-5999
ian.hoffman@arnoldporter.com
scott.schreiber@arnoldporter.com
arthur.luk@arnoldporter.com

*Counsel for Defendant National
Union Fire Ins. Co. of Pittsburgh,
Pa*

Allen Burton (*pro hac vice*)
O'MELVENY & MYERS LLP
7 Times Square
New York, NY 10036
Tel: (212) 326-2282
Fax: (212) 326-2061
aburton@omm.com

Joseph R. O'Connor (*pro hac vice*)
O'MELVENY & MYERS LLP
400 South Hope Street
Los Angeles, CA 90064
Tel: (213) 430-6000
Fax: (213) 430-6407
joconnor@omm.com

/s/ Matthew W. Beato
Matthew W. Beato (VSB #83637)
Kimberly M. Melvin (*pro hac vice*)
Cara Tseng Duffield (*pro hac vice*)
WILEY REIN LLP
1776 K Street, NW
Washington, DC 20006
Tel: (202) 719-7000
Fax: (202) 719-7049
mbeato@wiley.law
kmelvin@wiley.law
cduffield@wiley.law

Counsel for Defendant U.S. Specialty Ins. Co.

Scott A. Schechter (*pro hac vice*)
Joshua DiLena (*pro hac vice*)
KAUFMAN BORGEEST & RYAN LLP
200 Summit Lake Drive
Valhalla, NY 10595
Tel: (914) 449-1000
Fax: (914) 449-1100
sschechter@kbrlaw.com
jdilena@kbrlaw.com

/s/ D. Sean Trainor
D. Sean Trainor (VSB No. 43260)
O'MELVENY & MYERS LLP
1625 Eye Street, NW
Washington, DC 20006
Tel: (202) 383-5300
Fax: (202) 383-5414
dstrainor@omm.com

*Counsel for Defendant Federal Insurance
Company*

/s/ Charles W. Chotvacs
Charles W. Chotvacs (VSB# 70045)
Thomas J. Judge (*pro hac vice*)
Jeffrey J. Ward (*pro hac vice*)
DYKEMA GOSSETT PLLC
1301 K Street N.W., Suite 1100 West
Washington, D.C. 20005
Telephone: (202) 906-8619
Facsimile: (888) 813-2443
cchotvacs@dykema.com
tjudge@dykema.com
jward@dykema.com

*Counsel for Defendant Travelers Casualty and
Surety Company of America*

/s/ William L. Mitchell
William L. Mitchell (VSB #80125)
ECCLESTON & WOLF, P.C.
10400 Eaton Place, Suite 107
Fairfax, VA 22030
Tel: (703) 218-5330
Fax: (703) 218-5350
wmitchell@ewva.com

*Counsel for Defendants Liberty Insurance
Underwriters, Inc. and Ironshore Indemnity*

Inc.

Kristin V. Gallagher (*pro hac vice*)
Kennedys
120 Mountain View Boulevard
P.O. Box 650
Basking Ridge
New Jersey 07920
Tel: (908) 848-1220
Fax: (908) 647-8390
Kristin.Gallagher@kennedyslaw.com

/s/ Patrick J. McDonald
Patrick J. McDonald (VSB #80678)
Cameron/McEvoy, PLLC
4100 Monument Corner Drive, Suite 420
Fairfax, VA 22030
703.460.9340 (direct)
703.273.8897 (fax)
pmcdonald@cameronmcevoy.com

*Counsel for Defendant Allied World National
Assurance Company*